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6 MANIGLIA LANDSCAPE, INC.; COHEN
LANDSCAPE SERVICES, INC.; THE CELTIS
7 GROUP, INC.; LANDSCAPE CONTRACTORS
COUNCIL OF NORTHERN CALIFORNIA
8

9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN FRANCISCO DIVISION
12

13 UNITED ASSOCIATION OF JOURNEYMAN
AND APPRENTICES OF THE PLUMBING
14 AND PIPE FITTING INDUSTRY,
UNDERGROUND UTILITY/LANDSCAPE
15 LOCAL UNION NO. 355, ET AL.,

16 Plaintiffs,

17 v.

18 MANIGLIA LANDSCAPE, INC., ET AL.,

19 Defendants.
20

Case No.: 3:17-cv-03037-RS

**STIPULATION AND ~~[PROPOSED]~~
ORDER TO EXTEND TIME FOR
PLAINTIFFS TO RESPOND TO
DEFENDANTS' MOTIONS TO
DISMISS; AND TO CONTINUE THE
CASE MANAGEMENT CONFERENCE
AND ASSOCIATED DEADLINES;
DECLARATION OF MICHELLE
CARTER IN SUPPORT**

21 Pursuant to Civil Local Rule 6-1(b), 6-2, 7-12, and 16-2(d), Plaintiffs UNITED
22 ASSOCIATION OF JOURNEYMAN AND APPRENTICES OF THE PLUMBING AND PIPE
23 FITTING INDUSTRY UNDERGROUND UTILITY/LANDSCAPE LOCAL UNION NO. 355,
24 MIGUEL INIGUEZ and FELIPE HERNANDEZ as Local 355 Trustees, FRANCISCO CRUZ
25 ORTIZ, and ALEJANDRO TREJO ("Plaintiffs"), Defendants MANIGLIA LANDSCAPE, INC.,
26 COHEN LANDSCAPE SERVICES, INC., THE CELTIS GROUP, INC., and LANDSCAPE
27 CONTRACTORS COUNCIL OF NORTHERN CALIFORNIA ("Contractor Defendants") and
28 Defendants OSCAR DE LA TORRE, DOYLE RADFORD, DAVID GORGAS, BRUCE RUST,

STIPULATION TO EXTEND TIME TO
RESPOND TO COMPLAINT

Case No.: 3:17-cv-03037-RS

1 FERNANDO ESTRADA, BRYON LONEY, ROBERT CHRISP, BILL KOPONEN, LARRY
2 NIBBI and MANUEL DE SANTIAGO (“Laborers Trustee Defendants”) (all collectively
3 “Defendants”) (all, along with Plaintiffs, the “Parties”), hereby submit the following stipulation:

4 WHEREAS, both the Contractor Defendants and the Laborers Trustee Defendants have
5 filed motions to dismiss the Plaintiffs’ complaint (“Dismissal Motions”), which are currently set
6 to be heard on September 14, 2017; Plaintiffs’ responses to the Dismissal Motions are currently
7 due on August 11 and August 17, 2017; the Parties believe that an extension of time to August
8 24, 2017 for Plaintiffs to respond to the Dismissal Motions would be in the interests of justice and
9 judicial economy; and the requested change would not alter the hearing date but would change the
10 deadline for Defendants to file their replies, if any (see Declaration of Michelle Carter in Support
11 of Stipulation (“Carter Decl.”) ¶¶ 2-4);

12 WHEREAS, the granting of some/all of the Dismissal Motions could dispose of the entire
13 action or remove Defendants from the litigation; the parties do not want to spend time and money
14 engaging in potentially unnecessary litigation-related activities or waste the Court’s time and
15 resources unnecessarily while the status of the case is uncertain; the Parties believe a continuance
16 of the case management conference from August 24, 2017 to October 12, 2017, along with a
17 corresponding extension of all related deadlines to a time after the Dismissal Motions have been
18 heard, would be in the interests of justice and judicial economy; and the requested continuance of
19 the case management conference would change the associated deadlines in the initial scheduling
20 order to September 21, 2017 and October 5, 2017 (see Carter Decl. ¶¶ 5-7); and

21 WHEREAS, the only prior extension in this lawsuit was a stipulated extension of the
22 deadline for Contractor Defendants to respond the first amended complaint (see Carter Decl. ¶ 8);

23 NOW, THEREFORE, IT IS HEREBY STIPULATED by and between the Parties,
24 through their respective counsel, that:

25 Plaintiffs shall respond to the Dismissal Motions on or before August 24, 2017;

26 Defendants shall file any replies in support of the Motions on or before August 31, 2017;

27 The Initial Case Management Conference shall be continued from August 24, 2017 to
28 October 12, 2017 at 10:00 a.m. in Courtroom 3, 17th Floor, 450 Golden Gate Ave., S.F.;

1 The associated deadlines identified in the initial scheduling order shall be continued as
2 follows: (1) the deadline to meet and confer regarding initial disclosures, early settlement, ADR
3 process selection, and a discovery plan shall be moved from August 3, 2017 to September 21,
4 2017; (2) the deadline to file ADR certification and stipulation to ADR or notice of need for a
5 phone conference shall be moved from August 3, 2017 to September 21, 2017; (3) the deadline to
6 file Rule 26(f) report shall be moved from August 17, 2017 to October 5, 2017; (4) the deadline
7 to complete initial disclosures shall be moved from August 17, 2017 to October 5, 2017; and (5)
8 the deadline to file the initial case management statement shall be moved from August 17, 2017
9 to October 5, 2017.

10 IT IS SO STIPULATED

11 Dated: August 9, 2017 CARTER CARTER FRIES & GRUNSCHLAG

13 By: /s/Michelle Q. Carter

14 Michelle Carter
15 Attorneys for Defendants
16 Maniglia Landscape, Inc., Cohen Landscape Services, Inc.,
The Celtis Group, Inc., and Landscape Contractors Council
of Northern California

17 Dated: August 9, 2017 WEINBERG, ROGER & ROSENFELD

19 By: /s/Concepción E. Lozano-Batista

20 Concepción E. Lozano-Batista
21 Attorneys for Defendants
Oscar De La Torre, Doyle Radford, David Gorgas, Bruce
Rust, Fernando Estrada, Bryon Loney, Robert Chrisp, Bill
Koponen, Larry Nibbi and Manuel De Santiago

22 Dated: August 9, 2017 McCRACKEN, STEMERMAN & HOLSBERRY LLP

24 By: /s/Yonina Alexander

25 Yonina Alexander
26 Attorneys for Plaintiffs
United Association of Journeyman and Apprentices of the
Plumbing and Pipe Fitting Industry Underground
27 Utility/Landscape Local Union No. 355, Miguel Iniguez and
Felipe Hernandez as Local 355 Trustees, Francisco Cruz
28 Ortiz, and Alejandro Trejo

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: August 10, 2017



Hon. Richard Seeborg
U.S. District Judge, Northern District of California

1 **DECLARATION OF MICHELLE CARTER IN SUPPORT OF STIPULATION**

2 I, MICHELLE CARTER, do hereby declare:

3 1. I am an attorney at law, duly licensed to practice before the United States District
4 Court for the Northern District of California; I represent the Contractor Defendants in the above-
5 entitled action. I make this declaration based on my own knowledge.

6 2. All Defendants have moved to dismiss the first amended complaint in this action (the
7 Dismissal Motions), which are currently set to be heard on September 14, 2017. Plaintiffs'
8 response to the Contractor Defendants' Motion is currently due on August 11, and their response
9 to the Laborers Trustee Defendants' Motion is currently due on August 17, 2017.

10 3. Because both Dismissal Motions were filed in close proximity, and make different
11 arguments, the parties believe that an extension of time to August 24, 2017 for Plaintiffs to
12 respond to the Dismissal Motions would be in the interests of justice and judicial economy.

13 4. Extending the Plaintiffs' deadline to respond to the Dismissal Motions will not alter the
14 hearing date on the Dismissal Motions, but would extend the deadline for all Defendants to file
15 any replies in support of the Dismissal Motions from August 18, 2017 (Contractor Defendants)
16 and August 24, 2017 (Laborers Trustee Defendants) to August 31, 2017.

17 5. Since the granting of some or all of the Dismissal Motions could dispose of the entire
18 action or remove some Defendants from the litigation, the parties do not want to spend time and
19 money engaging in potentially unnecessary litigation-related activities such as ADR selection,
20 discovery plans, initial disclosures, and preparation of a case management statement while the
21 status of the case is uncertain; nor do they want to waste the Court's time and resources
22 unnecessarily.

23 6. The Parties therefore believe that a continuance of the case management conference
24 from August 24, 2017 to October 12, 2017, along with a corresponding extension of all related
25 deadlines to a time after the Dismissal Motions have been heard, would be in the interests of
26 justice and judicial economy. Allowing time for the Dismissal Motions to be heard and decided
27 may streamline the litigation and avoid unnecessary work and/or multiple proceedings.

7. A continuance of the case management conference to October 12, 2017 would change the associated deadlines in the initial scheduling order as follows: (a) the deadline to meet and confer regarding initial disclosures, early settlement, ADR process selection, and a discovery plan would be moved from August 3, 2017 to September 21, 2017; (b) the deadline to file ADR certification and stipulation to ADR or notice of need for a phone conference would be moved from August 3, 2017 to September 21, 2017; (c) the deadline to file Rule 26(f) report would be moved from August 17, 2017 to October 5, 2017; (d) the deadline to complete initial disclosures would be moved from August 17, 2017 to October 5, 2017; and (e) the deadline to file the initial case management statement would be moved from August 17, 2017 to October 5, 2017

8. The only prior extension in the case to date was a stipulated extension of the deadline for Contractor Defendants to respond the first amended complaint from July 5, 2017 to July 28, 2017.

9. I have spoken with counsel for the Plaintiffs and for the Laborers Trustee Defendants, and all Parties agree and support the requested scheduling changes.

I declare under penalty of perjury under the laws of the State of California and the United States that the foregoing is true and correct, and that this Declaration was executed on August 9, 2017 at San Francisco, California.

/s/Michelle O. Carter

Michelle Carter

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ATTESTATION OF SIGNATURES

Pursuant to Local Civil Rule 5-1(i), I hereby attest that I have obtained concurrence in the filing of this document from each of the Signatories.

By: /s/Michelle Q. Carter
Michelle Carter